

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

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| ADJUSTACAM LLC, | § | |
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| PLAINTIFF, | § | C.A. NO. 6:10-cv-00329-LED |
| | § | |
| v. | § | |
| | § | |
| AMAZON.COM, INC., <i>et. al.</i> , | § | JURY TRIAL DEMANDED |
| | § | |
| DEFENDANTS. | § | |
| | § | |

**DEFENDANT OVERSTOCK.COM, INC.'S NOTICE OF JOINDER IN DEFENDANT
DELL INC.'S CORRECTED MOTION TO DISMISS PLAINTIFF'S ALLEGATIONS OF
INDIRECT INFRINGEMENT AND WILLFUL INFRINGEMENT FOR FAILURE TO
STATE A CLAIM**

Defendant Overstock.com, Inc. (“Overstock.com”) hereby joins Defendant Dell Inc.’s Corrected Motion to Dismiss Plaintiff’s Allegations of Indirect Infringement and Willful Infringement for Failure to State a Claim (Docket No. 164) and the associated Notice of Additional Authority Regarding Defendant Dell’s Corrected Motion to Dismiss (Docket No. 180), pursuant to Fed. R. Civ. P. 12(b)(6), and the arguments and authorities found therein.¹

AdjustaCam LLC’s (“AdjustaCam”) allegations of indirect infringement against Overstock.com are substantively the same as those it has asserted against Dell, Inc. (“Dell”), and are deficient for the same reasons set forth in Dell’s Motion to Dismiss. *Compare* First Amended Complaint for Patent Infringement (Docket No. 111), ¶ 156 (Overstock.com) *with* ¶ 92 (Dell); *see also id.* at ¶ 224 (Overstock.com & Dell). Because AdjustaCam has not adequately pled the required facts to support an allegation that Overstock.com indirectly or willfully

¹ Overstock.com is concurrently filing its First Amended Answer to AdjustaCam LLC's First Amended Complaint for Patent Infringement.

infringed the patent-in-suit, its indirect infringement and willful infringement claims against Overstock.com should be dismissed.

Dated: October 5, 2010

Respectfully submitted,

By: /s/ John H. Barr, Jr.

John H. Barr, Jr.

Attorney-in-Charge

State Bar No. 00783605

BRACEWELL & GIULIANI LLP

711 Louisiana, Suite 2300

Houston, Texas 77002

(713) 223-2300 - Telephone

(713) 221-1212 – Facsimile

ATTORNEY FOR DEFENDANT
OVERSTOCK.COM, INC.

Of counsel:

Christopher A. Shield

State Bar No. 24046833

John A. Yates

State Bar No. 24056569

Bracewell & Giuliani LLP

711 Louisiana, Suite 2300

Houston, Texas 77002

(713) 223-2300 - Telephone

(713) 221-1212 – Facsimile

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record pursuant to the Federal Rules of Civil Procedure on the 5th day of October, 2010.

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| <p>John J. Edmonds Michael J. Collins Henry M. Pogorzelski Erick Scott Robinson Collins, Edmonds & Pogorzelski, PLLC 1616 S. Voss Road, Suite 125 Houston, Texas 77057 jedmonds@cepiplaw.com mcollins@cepiplaw.com hpogorzelski@cepiplaw.com erobison@cepiplaw.com (Attorneys for Plaintiff, Adjustacam, LLC)</p> | <p>Andrew W. Spangler Spangler Law P.C. 208 N. Green Street, Suite 300 Longview, Texas 75601 spangler@spanglerlawpc.com (Attorney for Plaintiff, AdjustaCam, LLC)</p> |
| <p>James E. Geringer Salumeh R. Loesch Klarquist Sparkman LLP 121 SW Salmon Street, Suite 1600 Portland, Oregon 97204 James.Geringer@klarquist.com Salumeh.loesch@klarquist.com (Attorney for Defendant, Amazon.com. Inc.)</p> | <p>David W. Denenberg Davidoff Malito & Hutcher LLP 200 Garden City Plaza, Suite 315 Garden City, New York 11530 dwd@dmlegal.com (Attorney for Defendants, Compusa.com, Inc., New Compusa Corporation, Systemax, Inc. d/b/a Compusa and Tigerdirect, Inc.)</p> |
| <p>Anthony S. Gabrielson Benjamin T. Horton Thomas L. Duston Marshall, Gerstein & Borun LLP 233 S. Wacker Dr. 6300 Willis Tower Chicago, Illinois 60606-6357 agabrielson@marshallip.com bhorton@marshallip.com tduston@marshallip.com (Attorneys for Defendants, CDW Corporation f/k/a CDW Computer Centers, Inc., CDW, Inc. and CDW, LLC)</p> | <p>Scott F. Partridge Roger J. Fulghum Baker Botts L.L.P. 910 Louisiana Suite 3000 One Shell Plaza Houston, Texas 77002 scott.partridge@bakerbotts.com roger.fulghum@bakerbotts.com</p> <p>Paula Diane Heyman Baker Botts LLP 98 San Jacinto Blvd., Suite 1500 Austin, Texas 78701 paula.heyman@bakerbotts.com (Attorneys for Defendant, Dell, Inc.)</p> |
| <p>Justin N. Stewart Zarian Midgley & Johnson, PLLC 960 Broadway Ave., Suite 250</p> | <p>Kent M. Adams John Lynd Lewis Brisbois Bisgaard & Smith, L.L.P.</p> |

| | |
|--|--|
| <p>Boise, Idaho 83706 stewart@zarianmidgley.com</p> <p>Debby E. Gunter Trey Yarbrough Yarbrough ♦ Wilcox, PLLC 100 E. Ferguson St., Suite 1015 Tyler, TX 75702 debby@yw-lawfirm.com trey@yw-lawfirm.com (Attorney for Defendants Newegg, Inc., Newegg.com, Inc. and Rosewill Inc.)</p> | <p>3355 West Alabama, Suite 400 Houston, Texas 77098 kadams@lbbslaw.com jlynd@lbbslaw.com (Attorney for Defendant, Conn's, Inc. d/b/a Conn's)</p> |
| <p>Ezra Sutton Ezra Sutton, P.A. Plaza 9, 900 Route 9 Woodbridge, New Jersey 07095 esutton@ezrasutton.com (Attorney for Defendants, Fry's Electronics, Inc., Sakar International, Inc., Sakar, Inc., Kohl's Illinois, Inc. and Kohl's Corporation)</p> <p>Steven R. Daniels W. Bryan Farney (Lead) Bryan D. Atkinson Dechert LLP 300 West 6th Street, Suite 2010 Austin, Texas 78701 steven.daniels@dechert.com bryan.farney@dechert.com bryan.atkinson@dechert.com (Attorney for Defendants, Fry's Electronics, Inc., Hewlett-Packard Company, Micro Electronics, Inc. d/b/a Micro Center and Office Depot, Inc.)</p> | <p>Michael C. Smith Siebman Burg Phillips & Smith, LLP 113 East Austin Street P.O. Box 1556 Marshall, Texas 75671-1556 michaelsmith@siebman.com</p> <p>Peter I. Sanborn Holland & Knight LLP 10 St. James Avenue, 11th Floor Boston, Massachusetts 02116 peter.sanborn@hklaw.com</p> <p>R David Donoghue Holland & Knight LLP 131 S. Dearborn Street, 30th Floor Chicago, Illinois 60603 david.donoghue@hklaw.com (Attorneys for Defendants, Jasco Products Company LLC d/b/a Jasco Products Company d/b/a Jasco a/k/a Jasco Products Company, Target Corporation and Radioshack Corporation)</p> |
| <p>Brian Craft Eric H. Findlay Findlay Craft, LLP 6760 Old Jackson Highway, Suite 101 Tyler, TX 75703 efindlay@findlaycraft.com bcraft@findlaycraft.com (Attorney for Defendants, Fry's Electronics, Inc., Hewlett-Packard Company, Micro Electronics, Inc. d/b/a Micro Center and</p> | <p>Nena Wong Law Offices of Nena Wong 6080 Center Dr. #600 Los Angeles, CA 90045 nenawong@earthlink.net (Attorney for Defendant, Phoebe Micro Inc.)</p> |

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| Office Depot, Inc.) | |
| <p>Victor deGyarfas Foley & Lardner 555 S. Flower Street, Suite 3500 Los Angeles, California 90071 vdegyarfas@foley.com (Attorney for Defendant, Wal-Mart Stores, Inc.)</p> | <p>Michael D. Harris M. Kala Sarvaiya SoCal IP Law Group LLP 310 N. Westlake Blvd., Suite 120 Westlake Village, CA 91362 805-230-1350 and 805-230-1355 fax mharris@socalip.com ksarvaiya@socalip.com (Attorney for Defendants, Baltic Latvian Universal Electronics, LLC d/b/a Blue Microphones, LLC d/b/a Blue Microphone; and Blue Microphones, LLC)</p> |
| <p>Russell T. Wong Wong, Cabello, Lutsch, Rutherford & Brucculeri 20333 SH 249, Suite 600 Houston, Texas 77070 rwong@counselip.com (Attorney for Defendants, Intcomex, Inc., Klip Extreme LLC and Software Brokers of America Inc. d/b/a Intcomex Corporation d/b/a Intcomex)</p> | <p>Collin M. Maloney Ireland Carroll & Kelley 6101 S. Broadway, Suite 500 Tyler, Texas 75703 fedserv@icklaw.com</p> <p>Thomas G. Carulli Kaplan, Massamillo & Andrews, LLC 70 East 55th Street, 25th Floor New York, NY 10022 tcarulli@kmalawfirm.com (Attorneys for Defendant, Lifeworks Technology Group, LLC)</p> |
| <p>Philip A. Werner Werner Ayers, L.L.P. 2000 West Loop South, Suite 1550 Houston, Texas 77027 (Attorney for Defendant, jWIN Electronics, Corp.)</p> | <p>Herbert J. Hammond Vishal Patel Thompson & Knight LLP One Arts Plaza 1722 Routh Street, Suite 1500 Dallas, Texas 75201</p> <p>Patricia L. Davidson Mirick, O'connell, DeMallie & Lougee, LLP 100 Front Street Worcester, MA 01608-1477 (Attorneys for Defendant, Gear Head, LLC)</p> |
| <p>Jen-Feng Lee LT Pacific Law Group LLP 17800 Castleton Street #383 City of Industry, CA 91748 jflee@ltpacificlaw.com</p> | <p>Steven R. Daniels W. Bryan Farney (Lead) Bryan D. Atkinson Dechert LLP</p> |

| | |
|---|---|
| (Attorney for Defendant, Auditek Corporation) | 300 West 6 th Street, Suite 2010 Austin, Texas 78701 steven.daniels@dechert.com bryan.farney@dechert.com bryan.atkinson@dechert.com (Attorney for Defendant, Creative Labs, Inc.) |
|---|---|

/s/ John H. Barr, Jr.

John H. Barr, Jr.